

House File 2451 - Introduced

HOUSE FILE 2451

BY BENNETT

A BILL FOR

1 An Act relating to cell site location information and search
2 warrants.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **808.4B Application for search**
2 **warrant — cell site location information — issuance.**

3 1. A peace officer may make a written application to a
4 magistrate for the issuance of a search warrant to require a
5 wireless carrier to provide cell site location information for
6 a designated cell phone number, supported by a peace officer's
7 oath or affirmation, which includes facts, information, and
8 circumstances tending to establish sufficient grounds for
9 granting the peace officer's application, and probable cause
10 for believing the grounds exist.

11 2. The application shall include the identity of the person
12 who is the owner of the cell phone, if known, the cell phone
13 number for which location information is being sought, the name
14 of the wireless carrier, and details of the particular offense
15 that is under investigation. If the magistrate issues the
16 search warrant, the magistrate shall endorse on the application
17 the name and address of all persons upon whose sworn testimony
18 the magistrate relied to issue the warrant together with the
19 abstract of each witness' testimony, or the witness' affidavit.
20 However, if the grounds for issuance are supplied by an
21 informant, the magistrate shall identify only the peace officer
22 to whom the information was given. The application or sworn
23 testimony supplied in support of the application must establish
24 the credibility of the informant or the credibility of the
25 information given by the informant. The magistrate may in the
26 magistrate's discretion require that a witness upon whom the
27 applicant relies for the information appear personally and be
28 examined concerning the information.

29 3. Upon a finding of probable cause to issue such a warrant,
30 the magistrate shall issue a warrant authorizing the collection
31 of cell site location information for a period not to exceed
32 sixty days, signed by the magistrate with the magistrate's
33 name of office, directed to any peace officer, commanding that
34 the peace officer collect cell site location information from
35 the wireless carrier for the cell phone number provided in the

1 application.

2 4. A peace officer may obtain cell site location information
3 without a search warrant if any of the following apply:

4 a. When a cell phone is reported lost or stolen by the owner
5 or user.

6 b. To respond to a cell phone user's call for emergency
7 services.

8 c. After receiving informed, affirmative, and written
9 consent of the owner or user of the cell phone.

10 d. After receiving informed and affirmative consent of the
11 legal guardian or next of kin of the owner or user if the owner
12 or user is believed to be deceased or reported missing and is
13 unable to be contacted.

14 e. In an emergency situation that involves the risk of
15 death or serious physical harm to a person who possesses a cell
16 phone.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill relates to cell site location information and
21 search warrants.

22 The bill provides that a peace officer may make a written
23 application to a magistrate for the issuance of a search
24 warrant to require a wireless carrier to provide cell site
25 location information for a designated cell phone number,
26 supported by a peace officer's oath or affirmation, which
27 includes facts, information, and circumstances tending to
28 establish sufficient grounds for granting the peace officer's
29 application, and probable cause for believing the grounds
30 exist. The application shall include the identity of the
31 person who owns, if known, the cell phone number for which
32 location information is being sought, the name of the wireless
33 carrier, and details of the particular offense that is under
34 investigation.

35 The bill provides that upon a finding of probable cause to

1 issue such a warrant, the magistrate shall issue a warrant
2 authorizing the collection of cell site location information
3 for a period not to exceed 60 days, directed to any peace
4 officer, commanding that the peace officer collect cell site
5 location information from the wireless carrier for the cell
6 phone number provided in the application.

7 The bill provides that a peace officer may obtain cell site
8 location information without a search warrant if any of the
9 following apply: when a cell phone is reported lost or stolen
10 by the owner or user; to respond to a cell phone user's call
11 for emergency services; after receiving informed, affirmative,
12 and written consent of the owner or user of the cell phone;
13 after receiving informed and affirmative consent of the legal
14 guardian or next of kin of the owner or user if the owner
15 or user is believed to be deceased or reported missing and
16 is unable to be contacted; or in an emergency situation that
17 involves the risk of death or serious physical harm to the
18 owner or user of a cell phone.